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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,872	03/19/2004	Frank Simon	032693-115	7651

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EXAMINER

FISHER, MICHAEL J

ART UNIT PAPER NUMBER

3629

DATE MAILED: 11/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/804,872	Applicant(s) SIMON ET AL.	
	Examiner Michael J. Fisher	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Double Patenting

Claims 1-14 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1 and 2 of prior U.S. Patent No. 6,195,648. This is a double patenting rejection.

Claims 1-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,195,648. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are both drawn to a system for disabling a vehicle upon non-receipt of payment and both the patent and the instant application include the following limitations:

- Computing a payment due deadline
- Generating a reference code
- Providing a reference code
- Receiving an additional code via a keypad
- Passing the additional code to a comparator
- Comparing the additional code to a reference code
- Disabling the vehicle if the codes don't match
- Enabling the vehicle if they do match

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over US PAT 5,917,405 to Joao in view of US PAT 6,647,328 to Walker.

As to claim 1, Joao discloses a method or enabling and disabling a vehicle (title), that generates a reference code (first signal, claim 1), receiving a code via a keypad (975), comparing the code with a reference code, col 46, line 66-col 47, line 7), disabling the system if the reference code is not received and enabling the vehicle if the signals are not received. Further, the system is shown to include items not dedicated to directly causing a spark (claim 2, electrical system does not directly initiate a spark, a spark plug does.) It would be inherent the process is not done until the system is initialized as initialization is how computers are activated.

Joao does not, however, teach using the system for loan repayment purposes or loading a deadline. Walker teaches a vehicle disabling system (title) that is taught as being useful for "loan companies" (col 59, lines 2-20). Therefore, it would have been obvious to one of ordinary skill in the art to modify the system as disclosed by Joao by using it for ensure loan repayment, as taught by Walker, as failure to pay (missing a payment) for a car is akin to stealing the car (the ostensible purpose of Joao). Further, it would have been obvious to one of ordinary skill in the art to use a payment deadline as this is when the loan company would require payment in accordance with a loan agreement or repossess the vehicle.

As to claim 6, Joao teaches a plurality of codes (as there are different codes necessary, (enable, disable, etc.)).

As to claims 2,7,12, Joao discloses connecting a host computer to a client computer (via transmitter, fig 2).

As to claims 3,13, it would be obvious to one of ordinary skill in the art to provide a database so in order to track loans.

As to claims 4,9,14 it is very well known in the art to track payment due deadlines based on payment interval (loans are well known to generally be monthly, therefore the interval would be monthly, i.e. "The first of the month" or "the fifteenth of the month").

As to claims 5,10, as the system is shown to be used monthly, Joao as modified by Walker would inherently 'receive another code' each month in which the loan is in force.

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As to claims 8,11, it would be obvious to one of ordinary skill in the art to load the interval as the system is initialized to ensure that the correct interval is in the system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Fisher whose telephone number is 571-272-6804. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael J Fisher



Patent Examiner
GAU 3629

MF 

3/16/05